

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DANIEL CAMPBELL<sup>1</sup>, an individual,

Plaintiff,

v.

OREGON DEPARTMENT OF HUMAN  
SERVICES, an Oregon public agency;  
FARIBORZ PAKSERESHT, in his official  
Capacity as Director of Human Services,  
State of Oregon; and ASHLEY  
CARSON-COTTINGHAM, in her official  
capacity as Director of Office of Aging and  
People with Disabilities, a division within the  
state Department of Human Services, State  
of Oregon,

Defendants.

Case No. 6:18-cv-00603-MK

ORDER

MCSHANE, Judge:

Magistrate Judge Mustafa T. Kasubhai filed a Findings and Recommendation (ECF No. 155), and the matter is now before this Court on Plaintiff's and Defendants' objections. *See* 28

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<sup>1</sup> This action previously included Gary Romine as a plaintiff. Pursuant to Mr. Romine's Stipulated Notice of Dismissal, Mr. Romine was terminated from this action on January 21, 2020. *See* ECF No. 174.

U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). I review *de novo*. *United States v. Bernhardt*, 840 F.2d 1441, 1445 (9th Cir. 1998). I find no error and conclude the report is correct.

Magistrate Judge Kasubhai's Findings and Recommendation (ECF No. 155) is adopted in full. Defendants' Motion to Dismiss (ECF No. 144) is GRANTED in part and DENIED in part. Plaintiff's (Daniel Campbell's) first claim against Defendants (Oregon Department of Human Services, Fariborz Pakseresht, and Ashley Carson-Cottingham) is dismissed with prejudice. Plaintiff's second claim may proceed. Plaintiff's third and fourth claims are dismissed, but Plaintiffs may file an amended complaint curing the defects outlined in Judge Kasubhai's Findings and Recommendation within 30 days of this Order. *See* Findings and Recommendations 15–17, ECF No. 155. If Plaintiff fails to timely file an amended complaint, Plaintiff's third and fourth claims are subject to dismissal with prejudice.

IT IS SO ORDERED.

DATED this 7th day of February, 2020.

s/Michael J. McShane

Michael McShane  
United States District Judge